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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR  | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|-----------------------|---------------------|------------------|
| 09/802,450      | 03/09/2001  | Joe Freeman Britt JR. | 04676P008X          | 6840             |

7590 03/14/2005

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EXAMINER

PEREZ DAPLE, AARON C

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2154

DATE MAILED: 03/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/802,450

**Applicant(s)**

BRITT, JOE FREEMAN

**Examiner**

Aaron C Perez-Daple

**Art Unit**

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 31-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 31-54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                         |                                                                             |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____                                                             | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. This Action is in response to Amendment filed 10/04/04, which has been fully considered.
2. Claims 1-30 are cancelled by Applicant.
3. New claims 31-54 are presented for examination.
4. This Action is FINAL.

### *Claim Rejections - 35 USC § 102*

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. **Claims 31-36, 39-44 and 47-52** are rejected under 35 U.S.C. 102(e) as being anticipated by Perry et al. (US 6,160,489) (hereinafter Perry).
7. As for claims 31, 39 and 47, Perry discloses a method, article of manufacture and apparatus comprising:
  - receiving a transmission from a caller (col. 5; lines 53-60);
  - identifying said caller (col. 6, lines 3-6);
  - vibrating a device in a first predetermined manner based on said caller's identity if said transmission is a telephone call (col. 6, lines 16-23); and

vibrating the device in a second predetermined manner based on said caller's identity if said transmission is not a telephone call (col. 6, lines 16-23).

8. As for claims 32, 40 and 48, Perry discloses the method, article of manufacture and apparatus of claims 31, 39 and 47, wherein said second predetermined manner is a second predetermined sequence of vibrations (col. 6, lines 16-23; Fig. 3).
9. As for claims 33, 41 and 49, Perry discloses the method, article of manufacture and apparatus of claims 32, 40 and 48, wherein said second predetermined sequence of vibrations further comprises vibrations of a different frequency than said first predetermined manner (Fig. 3; col. 5, lines 33-43).
10. As for claims 34, 42 and 50, Perry discloses the method, article of manufacture and apparatus of claims 31, 39 and 47, wherein said second predetermined manner comprises said first predetermined manner followed by an additional vibration (vibrations 303 and 302, Fig. 3).
11. As for claims 35, 43 and 51, Perry discloses the method, article of manufacture and apparatus of claims 34, 42 and 50, wherein said second predetermined manner further comprises vibrations of a different frequency than said first predetermined manner (Fig. 3).
12. As for claims 36, 44 and 52, Perry discloses the method, article of manufacture and apparatus of claims 31, 39 and 47, wherein said second predetermined sequence of vibrations further comprises vibrations of a different frequency than said first predetermined manner (Fig. 3; col. 5, lines 33-43).

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. **Claims 37, 38, 45, 46, 53 and 54** are rejected under 35 U.S.C. 103(a) as being unpatentable over Perry in view of Carey et al. (US 6,714,793 B1) (hereinafter Carey).

As for claims 37, 38, 45, 46, 53 and 54, Perry specifically anticipates providing different vibrations for different types communication signals and provides the specific examples of a telephone call and a fax (col. 5, lines 53-60; col. 6, lines 16-23). However, Perry does not specifically disclose that the types of communication signals may comprise email and instant messages. Carey teaches receiving email and instant messages on a mobile device (cellular phone) (col. 5, lines 5-43). It would have been obvious to one of ordinary skill in the art to modify Perry by providing different vibration patterns for email and instant messages in order to distinguish the type of communication signal when receiving email and instant messages on a cellular phone, as taught by Carey (col. 4, lines 5-43) and further motivated by Perry (col. 5, lines 53-60).

***Response to Arguments***

15. Applicant's arguments filed 10/4/04 have been fully considered but they are not persuasive.

First, Applicant asserts that Perry fails to disclose providing a distinctive alert pattern based on whether or not the transmission is a telephone call. The Examiner respectfully disagrees. Perry specifically anticipates providing different vibrations for different types of communication signals and provides the specific examples of a telephone call and a fax in col. 5, lines 53-60 and col. 6, lines 16-23. Second, Applicant asserts that Perry fails to disclose the use of an additional vibration between transmission types. The Examiner respectfully disagrees. Fig. 3 provides some examples of alert patterns which may be used to distinguish between the transmission types. Pattern 303, for example, provides an additional vibration from pattern 302. Moreover, these illustrations are only exemplary. Additional vibration patterns are within the scope of the teachings of Perry. Similarly, Fig. 3 clearly discloses patterns of different frequencies. Compare pattern 303 to pattern 306, for example. Therefore, Perry properly anticipates all the limitations of claims 31-36, 39-44 and 47-52.

Carey is relied upon only to teach the use of instant messages and email with a mobile device (e.g. cellular phone), therefore Carey is not required to teach the other limitations of the claims, which Perry properly anticipates for the reasons above. Thus, claims 37, 38, 45, 46, 53 and 54 are properly rejected under 35 U.S.C. 103(a) as being unpatentable over Perry in view of Carey.

### ***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 6,587,700 B1, note teaches different alerts based on type of transmission.

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17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron C Perez-Daple whose telephone number is (571) 272-3974. The examiner can normally be reached on 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

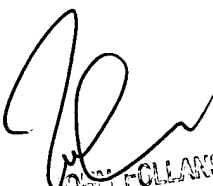
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access

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 3/9/05

Aaron Perez-Daple

  
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